

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

ALLIE THOMAS CHESTER,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-19-860-G
)	
JACOB PARSONS et al.,)	
)	
Defendants.)	

ORDER

Plaintiff Allie Thomas Chester, appearing pro se and proceeding *in forma pauperis*, brought this federal civil rights action pursuant to 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b)(1), the matter was referred to Magistrate Judge Shon T. Erwin for initial proceedings.

On January 15, 2020, Judge Erwin entered a Report and Recommendation (Doc. No. 26), in which he recommended that the Court (1) dismiss without prejudice Plaintiff's official-capacity claims against Defendant Parsons and Defendant Collins and (2) conclude that plaintiff has stated a claim against Defendant Parsons and Defendant Collins in their individual capacities under the Fourth Amendment. In the Report and Recommendation, Judge Erwin advised Plaintiff of his right to object to the Report and Recommendation by February 3, 2020. Judge Erwin also advised Plaintiff that a failure to timely object would constitute a waiver of his right to appellate review of the factual findings and legal conclusions contained in the Report and Recommendation.

To date, Plaintiff has not submitted an objection or requested an extension of time

to do so. On January 31, 2020, Plaintiff filed a Motion (Doc. No. 27) in which he requests “to sue both officers ind[ividually] under th[e] 4th Amen[dment].” Pl.’s Mot. at 1. As noted, Judge Erwin recommends permitting Plaintiff’s Fourth Amendment claims against Defendants Parsons and Collins in their individual capacities to proceed; thus, Plaintiff’s request is moot and does not constitute an objection, in form or substance, to the recommendations made in the Report and Recommendation.

Accordingly, the Report and Recommendation (Doc. No. 26) is ADOPTED.¹ Plaintiff’s official-capacity claims against Defendant Parsons and Defendant Collins are DISMISSED without prejudice. Plaintiff’s Motion (Doc. No. 27) is DENIED as moot.

IT IS SO ORDERED this 30th day of March, 2020.


CHARLES B. GOODWIN
United States District Judge

¹ It appears that, although Plaintiff was a pretrial detainee at the time he filed his Complaint, his claims are based on allegations of excessive force when he was arrested by Defendants. To the extent the Report and Recommendation references standards applicable to excessive force against a pretrial detainee, *see* R. & R. at 6 (citing *Kingsley v. Hendrickson*, 135 S. Ct. 2466 (2015)), the reference is immaterial to Judge Erwin’s analysis and is disregarded.